

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Robert E. Dudley) ATTORNEY DOCKET:	04274649
)	
SERIAL NO.:	10/828,678) GROUP ART UNIT:	1617
)	
FILED:	April 20, 2004) EXAMINER:	Houghtling, Richard A.
)	
TITLE:	PHARMACEUTICAL COMPOSITION AND METHOD FOR TREATING HYPOGONADISM		
DATE:	March 6, 2008	CUSTOMER NO.:	26565

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO OFFICE ACTION DATED FEBRUARY 6, 2008⁸

This communication is responsive to the Office Action dated February 6, 2008. This response is being made within one (1) month of the mailing date of the present Office Action. Accordingly, no fee for an extension of time is believed payable in respect of this communication. If any additional fee is deemed payable or overpayment creditable in respect of this communication, please charge or credit such an amount to Deposit Account No. 13-0019.

RESPONSE TO RESTRICTION REQUIREMENT

In the Office Action dated February 6, 2008, the Examiner issued an election of species requirement alleging that the application contains claims to patentably distinct species.

The Examiner stated that Applicant is required to elect a single disclosed species of a C₄ alcohol, and a single disclosed species of a penetration enhancer for initial prosecution on the merits. Applicant accordingly elects ethanol as the C₁-C₄ alcohol, and isopropyl myristate as the penetration enhancer, pursuant to 37 C.F.R. § 1.146. Therefore, the claims which read on the elected species are claims 1-30, 32-37, 39-40 and 42-79.

The foregoing election is made without prejudice to Applicant's right to claim the subject matter of all non-elected claims in this or any related application. No new matter is added and no change in inventorship is believed to result from the election.

CONCLUSION

Applicant submits that the presently pending claims are in condition for allowance and requests early and favorable consideration.

Respectfully submitted,

Larcey, Jr.

wren e S. Pope

Reg. No. 26,791

CUSTOMER NUMBER 26565
MAYER, BROWN, ROWE & MAW LLP
P.O. Box 2828
Chicago, IL 60690-2828
Telephone: (312) 701-8286
Facsimile: (312) 706-9000